

09/29/88:29'LJB.1

IN RE: PETITION FOR
SPECIAL HEARING
SW/C YORKWAY & LEWAY
(2532 AND 2534 Yorkway)
12th Election District
7th Election District
BRIJDEO SHIVNARAIN
DANIEL ABBOTT
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO.: 89-103-SPH

FINDINGS OF FACT AND CONCLUSIONS LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject properties as four (4) unit apartment buildings, as more particularly described in Petitioner's Exhibit 1.

At the beginning of the hearing, a Motion was made to amend the Petition for Special Hearing to request approval of 2534 Yorkway as a five (5) unit apartment building nonconforming use. The Motion was granted, subject to the filing this date of an Amended Petition For Special Hearing, reposting of the property and further hearing on 2534 Yorkway, and with the further stipulation that testimony and evidence regarding both properties would be allowed today although testimony regarding 2534 Yorkway may be required again at the continued hearing. If no protestants appear at the continued hearing, affidavits of the witnesses today may be entertained at that time.

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The Petitioners, Brijdeo Shivrarin and Daniel Abbott, appeared, testified and were represented by Anthony J. DiPaula, Esquire. Also appearing on behalf of the Petitioners were: Michael B. Dallas, surveyor, Nancy J. Capecci and Marge Capecci. There were no Protestants.

Testimony indicated that the subject properties, known as 2532 and 2534 Yorkway, are zoned D.R. 10.5, and are improved with apartment buildings, one of which, 2532 Yorkway, presently contains four (4) apartments and the other, 2534 Yorkway, contains five (5). Mr. Abbott testified that he and his wife, brother and sister-in-law purchased the subject properties in 1980. He further testified that at the time they purchased the properties, 2532 contained four (4) apartments, and 2534 had five (5), one being located in the basement. He stated that 2532 had a fifth apartment which had not been rented for some time prior to his acquisition, nor since, because it was in need of renovations. His testimony indicated that all of the apartments in both buildings had been rented continuously since his acquisition, with the exception of short vacancies during changes in tenants.

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Mr. Shivrarin testified that he purchased 2534 Yorkway in May, 1988, and confirmed the continuous occupancy of the apartments since then. He further stated that he is contract purchaser of 2532, due to settle later today or tomorrow, contingent upon the results of this hearing.

Michael B. Dallas testified that he is a registered surveyor, licensed with the State of Maryland, and that he is familiar with the requirements of the Baltimore County Zoning Regulations and the zoning history relating to these properties. He has testified before this Deputy and the Zoning Commissioner on numerous occasions. He further testified that these properties, prior to 1955, were zoned "D" Residential which specifically permitted apartment buildings. As of 1955, these properties became nonconforming. Mr. Dallas testified that he prepared the site plan (Petitioners' Exhibit #1), that it accurately depicts the location of the improvements as they exist on these properties, and that with the one note correction that 2534 contains five (5) not four (4) apartment units, the information contained thereon was accurate. Finally, his testimony was that the use of the subject properties was consistent with the neighboring properties.

Mrs. Nancy Capecci testified on behalf of the Petitioners, and she is becoming quite well known in proceedings regarding Yorkway. She testified that she first became acquainted with the apartment buildings on Yorkway in 1946 when she and her husband purchased 2528 Yorkway, located in the same group with the subject properties. They moved in in 1947 and lived there until 1962. They continued to own 2528 until 1985, but were nonresident landlords. She has been intimately familiar with the area and stated unequivocally that all of the buildings in the area were originally built between 1943 and 1946 with four (4) units, with the exception of 2534 which had a basement unit used initially as a sales office. Shortly after she moved into 2528, the sales office was converted to a fifth apartment. She distinctly recalled knowing families that rented the fifth unit and who had children the same age as and who played with her children. She identified Petitioners' Exhibit #2 as a copy of a flyer advertising the properties for sale in the 1940's, the original of which she had with her as part of her records. She further testified that all of the buildings in that immediate area were continuously and uninterruptedly occupied, including 2532 as a four (4) unit and 2534 as a five (5) unit.

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Mrs. Marge Capecci was the final witness. She testified that she lived in 2526 Yorkway for approximately two (2) years beginning in 1945, then moved close by to her present home but not in the Yorkway neighborhood. She recalled that the sales office in 2534 became an apartment in approximately 1946 and that most if not all of the other buildings then had four (4) apartments.

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ments. She had and continues to have occasion to frequent the area of the subject properties, and confirmed their continuous and uninterrupted occupancy.

Petitioners also submitted an affidavit of one Anita Cavoures confirming the use of the subject properties dating back to the late 1940's. Testimony indicated that the subject properties were zoned "D" Residence Zone which permitted as of right an apartment building under the 1945 Zoning Regulations. Counsel argued that since all four (4) apartments in 2532 were in existence prior to the 1955 regulations taking effect, said use should be permitted to continue as a nonconforming use.

The Petitioners seek relief from Section 104.1, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The use of the subject property, 2532, as four (4) apartments was allowed under the 1945 regulations, and predates the establishment of the zoning regulations passed in 1955. It therefore is clearly nonconforming. The uncontroverted testimony indicated that the use of the subject property for four (4) apartments has been continuous and without interruption since approximately 1946 to the present time.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should

09/29/88:29'LJB.1

be granted as to 2532 Yorkway only. Proceedings with respect to 2534 Yorkway will be continued after the property is posted again giving notice of the amended request.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 29th day of September, 1988, that the nonconforming use of 2532 Yorkway as a four (4) unit apartment building, in accordance with Petitioners' Exhibit #1, be approved, and as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order; and,

IT IS FURTHER ORDERED, that this matter be continued with respect to 2534 Yorkway to allow a reposting of the property and further opportunity to be heard.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

September 29, 1988

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
SW/Corner Yorkway and Leeway
(2532 and 2534 Yorkway)
12th Election District - 7th Councilmanic District
Brijdeo Shivrarin - Petitioner
Case No. 89-103-SPH

Dear Mr. DiPaula:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in the case of 2532 Yorkway in accordance with the attached Order. In the matter of 2534 Yorkway, it is agreed that the property will be reposted and a continued hearing scheduled for the presentation of additional testimony and evidence.

In the event any party finds the decision rendered in the matter of 2532 Yorkway is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjjs
cc: People's Counsel
File

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-103-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the non-conforming use of two (2) four-unit apartment dwellings in a D.R. 10.5 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (as to 2532, owner of 2534)

Brijdeo Shivrarin
(Type or Print Name)

Signature

305 Eastern Boulevard
Address

Baltimore, MD 21221
City and State 391-4883

Attorney for Petitioner:

Anthony J. DiPaula
(Type or Print Name)

Signature

614 Bosley Avenue
Address

Towson, MD 21204
City and State

Attorney's Telephone No.: 828-9441

Legal Owner(s): (of 2532 only)

Daniel M. Abbott
(Type or Print Name)

Signature

Joan A. Abbott
(Type or Print Name)

Signature

Norma J. Abbott
(Type or Print Name)

Signature

Norma J. Abbott
Address

4713 Harford Road 426-1338
Address

Baltimore, MD 21214
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Anthony J. DiPaula
Name

614 Bosley Ave., Towson, MD 21204
Address

Phone No. 828-9441

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of September, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 29th day of September, 1988, at 11 o'clock A.M.

Zoning Commissioner of Baltimore County.

IN RE: PETITION FOR SPECIAL HEARING
SW/Corner Yorkway and Leeway
(2532 and 2534 Yorkway)
12th Election District
7th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-103-SPH

Brijdeo Shivanarain
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of one five (5) unit apartment dwelling at 2534 Yorkway, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by Anthony J. DiPaula, Esquire. Also appearing on behalf of the Petition was Michael B. Dallas, Surveyor.

This special hearing request is a continuation of the hearing held on September 29, 1988 on both 2532 Yorkway and 2534 Yorkway owned by Petitioner. The continuance was necessary as the original Petition, advertisement and posting of the properties listed 2534 Yorkway as a four (4) unit apartment dwelling rather than a five (5) unit building. It was determined at that time that the hearing should be continued in the event that Protestants who did not care to appear at the last hearing felt differently as a result of the change in number of the units. There were no Protestants in attendance at either hearing.

Testimony indicated that the subject property, known as 2534 Yorkway, presently contains five apartments. Testimony indicated that Petitioner purchased the property in May 1988 and at the time of his purchase and since, all five apartments have been continuously occupied without interruption.

Mrs. Nancy Capecci, who testified at the hearing scheduled on September 29, 1988, submitted an affidavit marked Petitioner's Exhibit 4 for this hearing which indicates that she first became acquainted with the apartment buildings on Yorkway in 1946 when she and her husband purchased 2528 Yorkway, which is located in the same group as the subject properties. Mrs. Capecci testified she moved into 2528 Yorkway in 1947 and lived there until 1962. Thereafter, she continued to own 2528 Yorkway until 1985. Mrs. Capecci testified she is familiar with the property and indicated that all buildings in the area were originally built between 1943 and 1946 with four apartment units, with the exception of 2534 Yorkway, which had a basement apartment unit. She indicated the basement apartment was initially used as a sales office and subsequently, some time prior to 1954, was converted into an apartment. Mrs. Capecci testified she remembered knowing several of the families who had rented the fifth apartment unit with children the same age as hers and that their children had played together. Mrs. Capecci introduced as Petitioner's Exhibit 2 a copy of a flier from the 1940s advertising the properties for sale and listing the properties as "brick apartment houses, four individual apartments in each house." Said flier indicates the apartments were built in 1943. She further testified to the best of her knowledge that all the buildings in her unit, which includes 2534 Yorkway, were continuously and without interruption occupied as four units, with 2534 Yorkway being occupied as a five unit apartment building.

Mrs. Marge Capecci, who testified at the September 29, 1988 hearing, submitted an affidavit marked Petitioner's Exhibit 5. At the hearing of November 15, 1988, Mrs. Capecci testified she lived at 2526 Yorkway in 1945 for two years. She indicated she then moved to another location in

the area and continued to frequent the Yorkway area to visit family and friends over the course of the next 40 years. Ms. Capecci further indicated she specifically remembers 2534 Yorkway being occupied as four apartment units with the sales office in the basement. Mrs. Capecci testified to the best of her recollection the basement sales office was converted to a fifth apartment unit shortly after 1946.

To further support his case, Petitioner introduced as Petitioner's Exhibit 3 the affidavit of Anita Cavoures. Ms. Cavoures testified she purchased 2516 Yorkway in 1948 or 1949. She indicated that she lived there for 15 years and continues to own the property. She further indicated she currently lives at 51 Yorkway. Ms. Cavoures' affidavit indicates that 2534 Yorkway was used as a four unit apartment building with a basement unit originally occupied as a sales office and converted to a fifth apartment prior to 1955.

Petitioner seeks relief from Section 104.1, pursuant to Section 500 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr.

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Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 509 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKewy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then reads:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel or land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

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Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an exception upon the general nonconforming rule for Special Exception office buildings. The second reads as follows:

"Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. (Bill No. 167, 1980)"

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning. Testimony presented indicated the apartment building was completed prior to 1945 and occupied as a four unit apartment with a fifth unit in the basement originally used as a sales office and later converted to an apartment.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject

property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKewy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

Based upon the testimony and evidence presented, it is clear that the nonconforming use of 2534 Yorkway as a five (5) unit apartment dwelling does exist and that such use has been continuous and uninterrupted without change or expansion.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

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THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 27th day of December, 1988 that the Petition for Special Hearing to approve the nonconforming use of one five (5) unit apartment dwelling at 2534 Yorkway, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, from and after the date of this Order.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
XXXXXX 887-3353

J. Robert Haines
Zoning Commissioner

December 27, 1988

Anthony J. DiPaula, Esquire
614 Bosley Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
SW/Corner Yorkway and Leeway
(2532 and 2534 Yorkway)
12th Election District - 7th Councilmanic District
Brijdeo Shivanarain - Petitioner
Case No. 89-103-SPH

Dear Mr. DiPaula:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

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ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

ORDER RECEIVED FOR FILING
Date 12/27/88
By [Signature]

AMENDED PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the nonconforming use of one (1) four unit apartment dwelling at 2532 Yorkway and one (1) five unit apartment dwelling at 2534 Yorkway, both in a D.R. 10.5 Zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s):
Brijdeo Shivanarain
(Type or Print Name)
Signature
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
Anthony J. DiPaula
(Type or Print Name)
Signature
614 Bosley Avenue
Address
Towson, Maryland 21204
City and State

Attorney's Telephone No.: 328-9441

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Anthony J. DiPaula
Name
614 Bosley Avenue - 21204 828-9441
Address
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 16th day of October, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15th day of November, 1988, at 10 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

E.C.O. No. 1 (over)

MICHAEL B. DALLAS
Registered Surveyor
SUITE 200
24 W. PENNSYLVANIA AVENUE
TOWSON, MD. 21204
494-0020

ZONING DESCRIPTION
No. 2532 YORKWAY

BEGINNING for the same on the southwestern side of Yorkway (50 feet wide) at a point distant 61.99 feet northwesterly along a curve to the left having a radius of 4,075.00 feet from the corner formed by the intersection of the southwestern side of Yorkway and the northwestern side of Leeway (60 feet wide), said place of beginning being in line with the centerline of a partition wall between the building erected on the lot now being described and the building erected on the lot next adjacent to the southeast; thence running and binding on said line to, through and beyond said partition wall South 38 degrees 30 minutes 29 seconds East 123.65 feet to the northeast side of a 14 foot alley there situate; thence running and binding along said northeast side of said 14 foot alley North 51 degrees 06 minutes 49 seconds East 49.20 feet to a point in line with the centerline of a partition wall at the division line between the building erected on the lot now being described and the building erected on the lot next adjacent to the northwest; thence running and binding on said line to, through, and continuing beyond said herein lastly mentioned partition wall North 38 degrees 30 minutes 29 seconds East 123.65 feet to the southwestern side of said Yorkway (50 feet wide), thence Southeasterly by a line curving to the right with a radius of 4,075.00 feet the arc distance of 49.01 feet to the place of beginning. The improvements thereon being known as No. 2532 Yorkway.

June 29, 1988

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 12th
Posted for: Special Hearing
Petitioner: Brijdeo Shivanarain, Daniel M. Abbott, et al
Location of property: 2532 & 34 Yorkway
Location of Signs: 2532 Yorkway, corner 34th St. & Yorkway, at property of J. Robert Haines
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 2
Date of return: 9/14/88

MICHAEL B. DALLAS
Registered Surveyor
SUITE 200
24 W. PENNSYLVANIA AVENUE
TOWSON, MD. 21204
494-0020

ZONING DESCRIPTION
No. 2534 YORKWAY

BEGINNING for the same on the southwestern side of Yorkway (50 feet wide) at the corner formed by the intersection of the southwestern side of Yorkway and the northwestern side of Leeway (60 feet wide), thence running and binding on said northwestern side of Leeway (60 feet wide) South 34 degrees 11 minutes 20 seconds West 123.25 feet to the northeast side of a 14 foot alley there situate; thence running and binding along said northeast side of said 14 foot alley North 51 degrees 06 minutes 49 seconds West 71.24 feet to a point in line with the centerline of a partition wall at the division line between the building on the lot now being described and the building erected on the lot next adjacent to the northwest; thence running and binding on said line to, through, and continuing beyond said herein mentioned partition wall North 38 degrees 30 minutes 29 seconds East 123.65 feet to the southwestern side of said Yorkway (50 feet wide), thence Southeasterly by a line curving to the right with a radius of 4,075.00 feet the arc distance of 61.99 feet to the intersection of the southwestern side of Yorkway and the northwestern side of Leeway (60 feet wide), and the place of beginning. The improvements thereon being known as No. 2534 Yorkway.

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle
4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222
September 1, 1988

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case #89-103-SPH - P.O. #04070 - Reg. #M18932 - 73 lines, inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one successive weeks before the 2nd day of September 1988; that is to say, the same was inserted in the issues of September 1, 1988

Kimbel Publication, Inc.
per Publisher.
By K.C. Orlie

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 12th
Posted for: Special Hearing
Petitioner: Brijdeo Shivanarain
Location of property: 2532 Yorkway, corner 34th St. & Yorkway, at property of J. Robert Haines
Location of Signs: 2532 Yorkway, corner 34th St. & Yorkway, at property of J. Robert Haines
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 2
Date of return: 9/14/88

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., September 1, 1988
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on September 1, 1988
PO# 04069
REG# M18932
\$35.63
S. Zeke Orlie
THE JEFFERSONIAN,
Publisher

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petitioner(s): Brijdeo Shivanarain/Daniel M. Abbott, et al
Hearing Date: Thursday, Sept. 29, 1988 at 11:00 a.m.
Special Hearing: To approve the non-conforming use of two (2) four-unit apartment dwellings. In the event that the Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
9015 Sept. 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

Re: Petition for Special Hearing
Case number: 89-103-SPH
SW/C Yorkway and Leeway (2532 and 2534 Yorkway)
12th Election District - 7th Councilmanic
Petitioner(s): Brijdeo Shivanarain/Daniel M. Abbott, et al
Hearing Scheduled: Thursday, September 29, 1988 at 11:00 a.m.

Dear Mr. DiPaula:

Please be advised that \$87.13 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 659034
DATE: 9/29/88 ACCOUNT: 84615-000
AMOUNT: \$ 87.13
RECEIVED FROM: Shivanarain and Abbott
FOR: Zeke Orlie
9/29/88
B 650 ***** 89-103-SPH

CERTIFICATE OF PUBLICATION

TOWSON, MD., October 28, 1988
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on October 27, 1988

THE JEFFERSONIAN,
S. Zeke Orlie
Publisher

PO 05231
reg H20373
case 89-103-SPH
price \$41.25J

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle
4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222
October 27, 1988

THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hrgs. - Case #89-103-SPH - P.O. #05232 - Reg. #M20363 - 82 lines was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one successive weeks before the 28th day of October 1988; that is to say, the same was inserted in the issues of Oct. 27, 1988

Kimbel Publication, Inc.
per Publisher.
By K.C. Orlie

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

August 17, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-103-SPH
SW/C Yorkway and Leeway (2532 and 2534 Yorkway)
12th Election District - 7th Councilmanic
Petitioner(s): Brijdeo Shivanarain/Daniel M. Abbott, et al
HEARING SCHEDULED: THURSDAY, SEPTEMBER 29, 1988 at 11:00 a.m.

Special Hearing: To approve the non-conforming use of two (2) four-unit apartment dwellings.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
cc: Brijdeo Shivanarain
Daniel M. Abbott, et ux
Anthony J. DiPaula, Esq.
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Mr. Brjdeo Shivanarin
305 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition for Special Hearing
CASE NUMBER 89-103-SPH
SW/C Yorkway and Leeway
(2534 Yorkway)
12th Election District - 7th Councilmanic
Petitioner(s): Brjdeo Shivanarin
HEARING SCHEDULED: TUESDAY, NOVEMBER 15, 1988 at 10:00 a.m.

Dear Mr. Shivanarin:

Please be advised that \$97.25 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

JRH:gs

cc: Anthony J. DiPaola, Esq.
File

*IF PHASE II OF SHOW EMERGENCY PLAN IN EFFECT ON THIS DATE, CASE MAY BE RESCHEDULED. CALL 494-3391 TO CONFIRM DATE.

Date: 11/2/88



Dennis F. Rasmussen
County Executive

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

October 6, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER 89-103-SPH
SW/C Yorkway and Leeway
(2534 Yorkway)
12th Election District - 7th Councilmanic
Petitioner(s): Brjdeo Shivanarin
HEARING SCHEDULED: TUESDAY, NOVEMBER 15, 1988 at 10:00 a.m.

Special Hearing: Nonconforming use of one (1) five unit apartment dwelling at 2534 Yorkway.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE

IF PHASE II OF THE SHOW EMERGENCY PLAN IS IN EFFECT IN BALTIMORE COUNTY BY 8:30 a.m. ON THE DATE OF THE ABOVE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, DECEMBER 22, 1988. PLEASE TELEPHONE DUCTER CLERK AT 494-3391 TO CONFIRM DATE.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: Brjdeo Shivanarin
Anthony J. DiPaola
File



Dennis F. Rasmussen
County Executive

VETERANS' ATTENTION THE MOST SENSATIONAL OFFER EVER MADE BRICK APARTMENT HOUSES 4 Individual Apartments In Each House EACH APARTMENT HAS

SEPARATE ENTRANCE FROM MAIN HALLWAY
LARGE LIVING ROOM SIZE 12 FEET 8 INCHES WIDE BY 17 FEET 8 INCHES LONG
LARGE BEDROOM SIZE 12 FEET 8 INCHES LONG AND 12 FEET 8 INCHES WIDE
FOR CLOTHES
LARGE BATHROOM WITH TUB AND SHOWER BATH AND LARGE LINEN CLOSET
ENTRANCE HALL WITH COAT CLOSET
KITCHEN WITH BUILT-IN CABINETS, LINOLEUM, GAS RANGE AND WESTINGHOUSE ELECTRIC REFRIGERATOR
HOT WATER HEATING PLANT WITH SEPARATE THERMOSTAT IN EACH APARTMENT
SEPARATE STORAGE ROOM IN BASEMENT FOR EACH APARTMENT
LAUNDRY TUBS AND CLOSET IN BASEMENT, HARDWOOD FLOORS AND SUB FLOORS
CHURCHES OF ALL DENOMINATIONS, PLAYGROUNDS AND MODERN SHOPPING CENTER NEARBY, AND A NEW MILLION DOLLAR HIGH SCHOOL WITHIN TWO BLOCKS. BACK WATER BATHING BEACH WITHIN FIVE MINUTES RIDE.
COUNTESS HOUSES INCLUDING GROUND PRICE \$17,000.00
BUILT IN 1943

CONSTRUCTION OF THESE HOMES WAS SUPERVISED AND INSURED BY FEDERAL HOUSING ADMINISTRATION

IF YOU MAKE A CASH PAYMENT OF \$500.00 AND FINANCE YOUR MORTGAGE UNDER F.H.A. - VETERANS ADMINISTRATION APPROVED PLAN, YOUR MONTHLY PAYMENT WOULD BE AS FOLLOWS:
Your rent received from two apartments at \$13.00 per month \$ 26.00
These are O.P.A. APPROVED RENTS. TOTAL RECEIVED PER MONTH \$ 26.00

YOUR MONTHLY PAYMENT ON THE MORTGAGE WOULD BE
YOUR MONTHLY PAYMENT ON THE MORTGAGE WOULD BE \$ 80.00 (Decreases Every Month)
1/4 OF YOUR ANNUAL COUNTY TAXES \$ 25.00 (Decreases Every Month)
F.H.A. INSURANCE \$ 5.00
YOUR TOTAL MONTHLY PAYMENT ON MORTGAGE \$ 111.00

Balance of income left to you after mortgage payment \$ 15.00
YOUR OTHER YEARLY EXPENSES FOR RUNNING THE HOUSE ARE
COAL USED, 12 TONS AT \$10.00 PER TON \$ 120.00
WATER USED FOR YEAR (AVERAGE) \$ 60.00
ELECTRICITY USED FOR YEAR (AVERAGE) \$ 60.00
MAINTENANCE OF PARK, STREET, LIGHTS, ETC. \$ 40.00
REPAIRS \$ 20.00
TOTAL ANNUAL EXPENSES OTHER THAN MORTGAGE \$ 300.00
DIVIDED BY 12 MONTHS, EQUALS PER MONTH \$ 25.00

AMOUNT LEFT FROM MONTHLY RENT AFTER PAYING MORTGAGE AND ALL EXPENSES \$ 22.75
Add to this the amount you have paid off (saved) on your mortgage \$ 43.05
YOUR TOTAL MONTHLY PROFIT \$ 65.80
OH YOU CAN LIVE IN ONE APARTMENT RENT FREE AND STILL HAVE A NICE INCOME!
SEE THE FURNISHED SAMPLE APARTMENT 1ST FLOOR 2534 YORKWAY
OPEN DAILY - SATURDAY - SUNDAYS - 12 NOON TO 7:30 P.M.
Take 26 car to Dundalk and Liberty Parkway walk to end of 2500 block Liberty Parkway (Leeway); turn left on Leeway 1 block. Sample House on corner.

JEROME J. GEDBART, Agent
2534 YORKWAY PHONE DUNDALK 1791

PETITIONER'S
EXHIBIT 2

09/26/88:557.DR:ECC10239

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
SW/C Yorkway and Leeway * OF
(2532 and 2534 Yorkway) * BALTIMORE COUNTY
12th Election District
7th Councilmanic
BRJDEO SHIVNARAIN, *
DANIEL ABBOTT, et al * Case No. 89-103-SPH
Petitioners * *

AFFIDAVIT

I, Anita Cavoures, hereby certify that I am over 18 years of age and competent to testify as follows:

1. I first purchased 2516 Yorkway in 1948 or 1949 and have owned it continuously since then.
2. I lived in 2516 Yorkway for approximately 15 years, then moved to 51 Yorkway where I now reside.
3. All of the buildings in the entire area, 2516 Yorkway included, and specifically including the buildings which are the subject of this action, 2532 and 2534 Yorkway, were originally built as four-unit apartment buildings, with the exception of 2534 which had a basement unit originally utilized as the sales office and later, but before 1955, used a fifth apartment unit.

PETITIONER'S
EXHIBIT 3

09/26/88:557.DR:ECC10239

4. All of the apartment buildings in the entire neighborhood, where I have lived since 1948 or 1949, including 2532 and 2534 Yorkway, have been continuously rented and occupied with the exception of only partial and temporary vacancies normal and customary to multi-family rentals, up through the present time.

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FACTS STATED HEREIN ARE TRUE.

Dated: 9/24/88

Anita Cavoures
51 Yorkway
Baltimore, Maryland 21222

WITNESS: Carla K. Kelly

10/24/88:818.RG:ECC10239

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
SW/C Yorkway and Leeway * OF
(2532 and 2534 Yorkway) * BALTIMORE COUNTY
12th Election District
7th Councilmanic
BRJDEO SHIVNARAIN, *
DANIEL ABBOTT, et al * Case No. 89-103-SPH
Petitioners * *

AFFIDAVIT

I, Nancy Capecci, hereby certify that I am over 18 years of age and competent to testify as follows:
My husband I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. We continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.

2. During the entire period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, the property known as 2534 Yorkway consisted of five (5) apartment dwelling units. When we first moved in, it was 4 (four) apartment units with a sales/rental office down in the basement, but that office was converted to an apartment shortly after we moved in, and definitely prior to 1954.

PETITIONER'S
EXHIBIT 4

10/24/88:818.RG:ECC10239

3. All of the buildings in that entire area, where I have lived and frequented since 1946, including 2534 Yorkway, have been continuously rented and occupied with the exception of only partial and temporary vacancies normal and customary to multi-family rentals, up through the present time.

4. To the extent that I may have testified to further matters not contained herein at an open hearing on September 29, 1988 before the Deputy Zoning Commissioner for Baltimore County, my testimony would be the same as the testimony offered that day, and I specifically reaffirm, restate, and incorporate my testimony from that day into this Affidavit.

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FACTS STATED HEREIN ARE TRUE.

Dated: 11/7/88

Nancy Capecci
Nancy Capecci
Sunberry Road
Baltimore, Maryland 21222

WITNESS: Emla Ayers

10/24/88:819.RG:ECC10239

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
SW/C Yorkway and Leeway * OF
(2532 and 2534 Yorkway) * BALTIMORE COUNTY
12th Election District
7th Councilmanic
BRJDEO SHIVNARAIN, *
DANIEL ABBOTT, et al * Case No. 89-103-SPH
Petitioners * *

AFFIDAVIT

I, Marge Capecci, hereby certify that I am over 18 years of age and competent to testify as follows:

1. I first lived at 2526 Yorkway in 1945 and lived there for approximately two (2) years. We attempted to purchase but were unable to do so and instead rented the property. We then moved to 6918 Homeway, very nearby to this apartment neighborhood, and continued to frequent the Yorkway area to visit family and friends over the course of the next forty (40) years up to the present.
2. I specifically recall the property known as 2534 Yorkway, an end of group, in that same originally contained four (4) apartment dwelling units with a sales office in the basement, which in 1946 or shortly thereafter, was converted to a fifth apartment dwelling unit in the basement.
3. I specifically recall my children playing with the children of families who lived in that basement apartment at 2534 Yorkway, and can state that I have frequently visited 2534 Yorkway.

PETITIONER'S
EXHIBIT 5

